

Notice of Allowability	Application No.	Applicant(s)	
	09/497,957	THOMAS ET AL.	
	Examiner	Art Unit	
	Jeanine A. Goldberg	1634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/7/05.
2. ☒ The allowed claim(s) is/are 92-94,96-99,101 and 124-137.
3. ☒ The drawings filed on 2/4/00 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>2/03; 1/03</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Withdraw of Restriction Requirement

1. Claims 92-94, 96-99, 101, 124-137 are directed to an allowable product. The restriction requirement initially restricted between SEQ ID NO: 1, 3, 5, 7, 9-12. Upon reconsideration and a search of a common region of the gene, the genomic and cDNA have been rejoined in addition to the wild-type and the mutant sequences which share substantial identity with elected SEQ ID NO: 3. Since all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement made in the Office action mailed is hereby withdrawn.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Roger Rich on August 2, 2005.

4. The application has been amended as follows:

92. A plasmid comprising a nucleic acid sequence selected from the group consisting of:

- (a) the nucleic acid sequence of SEQ ID NO:1,
- (b) the nucleic acid sequence of SEQ ID NO:3,
- (c) the nucleic acid sequence of SEQ ID NO:5,
- (d) the nucleic acid sequence of SEQ ID NO:7,
- (e) the nucleic acid sequence of SEQ ID NO:9,
- (f) the nucleic acid sequence of SEQ ID NO:10,
- (g) the nucleic acid sequence of SEQ ID NO:11, and
- (h) the nucleic acid sequence of SEQ ID NO:12.

97. A plasmid comprising a nucleic acid sequence encoding a polypeptide sequence selected from the group consisting of:

- (a) the polypeptide sequence of SEQ ID NO:2,
- (b) the polypeptide sequence of SEQ ID NO:4,
- (c) the polypeptide sequence of SEQ ID NO:6, and
- (d) the polypeptide sequence of SEQ ID NO:8.

5. The following is an examiner's statement of reasons for allowance.

A search of SEQ ID NO: 1-12 have indicated the sequences were not previously disclosed and would have not been obvious at the time the invention was made.

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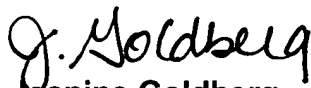
6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Jeanine Goldberg whose telephone number is (571) 272-0743. The examiner can normally be reached Monday-Friday from 7:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached on (571) 272- 0745.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The Central Fax Number for official correspondence is (571) 273-8300.


Jeanine Goldberg
Primary Examiner
August 2, 2005